

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

This matter is before the Court on plaintiff's motion to extend time to pay appellate filing fee (Filing No. [55](#)). Plaintiff is a prisoner who is proceeding *in forma pauperis* on appeal (Filing No. [52](#)). In his motion, plaintiff states that he has insufficient funds to pay the appellate initial partial filing fee assessed in the Court's January 6, 2009, memorandum and order (Filing No. [55](#)). The Court finds that plaintiff has shown good cause for extending the time to pay the initial partial filing fee on appeal.

When a prisoner is unable to pay an initial partial filing fee due to a lack of funds, the requirement that the initial partial filing fee will be paid at the outset of the case is suspended. See Jackson v. N.P. Dodge Realty Co., 173 F. Supp. 2d 951, 957 n. 9 (D. Neb. 2001). Instead, "the whole of the . . . filing fees are to be collected and paid by the installment method contained in § 1915(b)(2)." Henderson v. Norris, 129 F.3d

481, 484 (8th Cir. 1997). This matter will therefore proceed on appeal without payment of the initial partial filing fee.

IT IS ORDERED:

1. Plaintiff's motion to extend time to pay appellate filing fee is granted.

2. The initial partial filing fee and subsequent installments shall be collected and remitted, as funds exist, in the manner set forth in 28 U.S.C. § 1915(b)(2). Until the full appellate filing fee of \$455.00 is paid, the prisoner shall be obligated to pay, and the agency having custody of the prisoner shall forward to the clerk of the court, 20 percent of the preceding month's income in such months as the account exceeds \$10.00.

3. The clerk of the court shall serve a copy of this order on the appropriate financial officer for plaintiff's current institution.

4. Plaintiff shall continue to keep the Court informed of his current address at all times while this case is pending, as failure to do so may result in dismissal of this matter.

DATED this 19th day of February, 2009.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court